

Resources, Community, and
Economic Development Division

B-277243

June 25, 1997

The Honorable Don Young
House of Representatives

Subject: Highway Safety: NHTSA's Activities Concerning State
Motorcycle Helmet Laws

Dear Mr. Young:

As you requested, we reviewed the National Highway Traffic Safety Administration's (NHTSA) activities encouraging states to enact motorcycle helmet laws or discouraging the repeal of such laws. In particular, you asked that we determine (1) what activities NHTSA has carried out to promote the enactment of or discourage the repeal of state motorcycle helmet laws and (2) whether NHTSA has the authority to undertake these activities. Enclosure I transmits the briefing charts that formed the basis for our June 23, 1997, meeting with your staff.

RESULTS IN BRIEF

Since the fall of 1995, NHTSA has undertaken a number of activities designed to encourage the enactment of state motorcycle helmet laws or discourage the repeal of existing state laws. NHTSA has provided state safety organizations with technical assistance and information, met with state highway safety officials, sent letters to state legislators and governors, and had telephone conversations with and sent letters to officials from a variety of other organizations (e.g., health care organizations) that, in part, were designed to promote the enactment of or discourage the repeal of state motorcycle helmet laws. According to NHTSA, its officials testified six times and submitted one statement for the record before state legislative committees on these issues. In some cases, NHTSA undertook these activities at the request of state highway safety and other officials; in other cases, NHTSA acted on its own initiative. NHTSA also has conducted other activities, such as producing videotapes, participating in professional conferences and meetings, performing or supporting studies related to the benefits of using motorcycle helmets, and producing printed materials that generally have emphasized highway and motorcycle safety. However, for the most part, these activities have not

specifically focused on the enactment of state helmet laws. Excluding salaries, NHTSA's budget for all motorcycle helmet safety activities averaged about \$74,000, or about three-tenths of 1 percent of its average budget of \$24 million for traffic safety programs for fiscal years 1994-97.¹

NHTSA has broad statutory authority to conduct activities relating to highway safety. Specifically, NHTSA is authorized and directed to assist and cooperate with state governments, among others, to increase highway safety.² In addition, NHTSA is required to establish a data collection/reporting program to assist in reducing traffic-related deaths and injuries and conduct research and development activities to promote highway safety.³ However, NHTSA's authority is not without limits. For example, NHTSA is not permitted to require that states enact laws mandating motorcycle helmet use by adults in connection with highway safety grants.⁴ Furthermore, provisions of federal law prohibit executive agencies from using appropriated funds to conduct certain activities designed to support or defeat legislation.⁵ However, these provisions apply only to activities that are designed to influence a Member of Congress or support or defeat federal legislation. The activities by NHTSA that we reviewed were directed at encouraging state governments—not the Congress—to enact or not to repeal motorcycle helmet laws. In our opinion, the activities that we reviewed—NHTSA's testimony prepared for use before state legislative committees and activities pertaining to the Texas motorcycle helmet law—fell within NHTSA's authority to promote highway safety.

¹NHTSA could not provide us with activity-specific information on employees' salaries; therefore, salary amounts are not included in either the \$74,000 or the \$24 million.

²See 23 U.S.C. 401.

³See 23 U.S.C. 402(a); 23 U.S.C. 403(a).

⁴See 23 U.S.C. 402(c).

⁵Department of Transportation and Related Agencies Appropriations Acts, Fiscal Years 1996 and 1997; Treasury, Postal Service and General Government Appropriations Act, Fiscal Year 1997; 18 U.S.C. 1913.

AGENCY COMMENTS

We provided officials of the Department of Transportation and NHTSA with a draft of this report for review and comment. We subsequently met with NHTSA officials, including the Director, Office of Traffic Injury Control Programs; the Chief, Safety Countermeasures Division; and an attorney in the Office of the Chief Counsel, who agreed with the information presented. We received technical comments and clarifications and incorporated them where appropriate.

SCOPE AND METHODOLOGY

To address the review objectives, we met with and collected documents from officials at several organizations, including officials from NHTSA headquarters and the NHTSA Regional Office in Texas, the Chairperson of the Road and Transportation Committee of the West Virginia House of Delegates, a staff member for the Transportation Committee of the California Senate, and the Vice President for Governmental Relations of the Motorcycle Riders' Foundation. We examined documents that NHTSA uses to promote motorcycle safety and state motorcycle helmet laws and obtained a list of NHTSA's activities from the fall 1995 to May 1997 in this area. We also examined pertinent statutes to determine NHTSA's authority and any specific limitations on its authority to promote legislation. Finally, we considered whether NHTSA's testimony prepared for use before state legislative committees and testimony delivered before the Texas House Transportation Committee, as well as other activities conducted in Texas, fell within the scope of NHTSA's authority. We did not specifically review NHTSA's activities in other states. However, we selected Texas because of the relatively high level of activity NHTSA conducted there in 1997 that was directed at pending legislation to repeal the existing state motorcycle helmet law.

We are sending copies of this report to interested congressional committees; the Secretary of Transportation; and the Administrator, National Highway Traffic Safety Administration. Copies are available to other interested parties on request.

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We performed our work from April through June 1997 in accordance with generally accepted government auditing standards. Major contributors to this report were Helen Desaulniers, Susan Fleming, and James Ratzenberger. If you or your staff have any questions about this report, please contact me at (202) 512-3650.

Sincerely yours,

A handwritten signature in cursive script that reads "Phyllis F. Scheinberg". The signature is written in black ink and is positioned below the typed name.

Phyllis F. Scheinberg
Associate Director, Transportation Issues

Enclosure

GAO OBJECTIVES

- What activities has NHTSA conducted to promote the enactment of or discourage the repeal of state motorcycle helmet laws?
 - Does NHTSA have the authority to undertake these activities?
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GAO RESULTS IN BRIEF

- NHTSA's activities to promote the enactment of or discourage the repeal of state helmet laws.
 - Testified before state legislative committees, provided technical assistance, met with state safety officials, and sent letters to state legislative officials, safety officials, and others.
 - Some of these activities requested by state officials; others initiated by NHTSA. Type and level of activity varies by NHTSA region.
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GAO RESULTS IN BRIEF

- NHTSA is generally authorized by federal law
 - to assist states in increasing highway safety and to conduct research and development activities to promote highway safety.
 - Promotional activities we reviewed fell within the scope of NHTSA's authority.
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GAO BACKGROUND

- NHTSA's mission is to foster programs that save lives, prevent injuries, and reduce traffic-related health care and economic costs.
 - According to NHTSA's testimony before state legislative committees--"it is national transportation policy to encourage states to enact motorcycle helmet use laws for all riders."
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GAO BACKGROUND

- NHTSA encourages motorcycle helmet use and promotes state laws requiring such use because NHTSA has concluded
 - helmet use saved \$5.9 billion in public and private costs between 1984 and 1992;
 - hospital costs for riders wearing helmets range from about \$2,400 to \$13,300 v. \$3,400 to \$30,400 for riders not wearing helmets;
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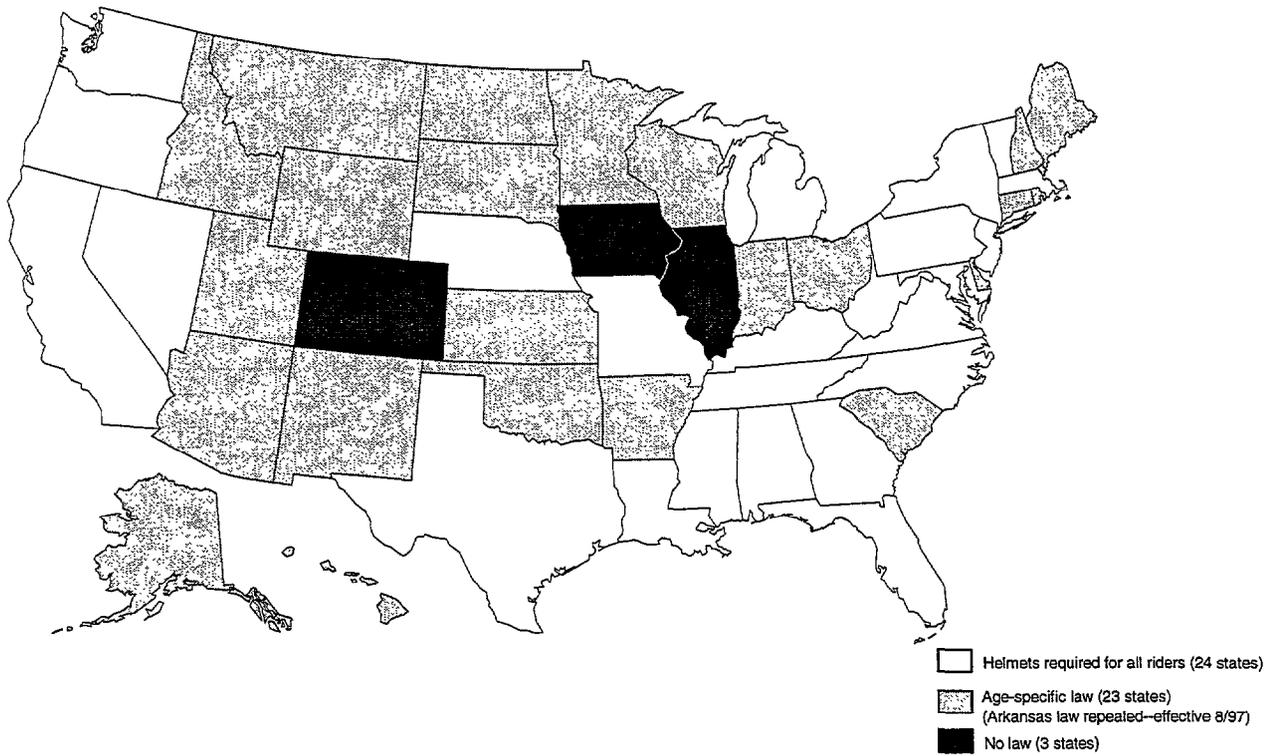
GAO BACKGROUND

- head injury is a leading cause of death in motorcycle crashes; and
 - since 1989, states that enacted universal helmet laws have experienced reductions in fatalities, ranging from 15% to 37% in the first year.
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GAO BACKGROUND

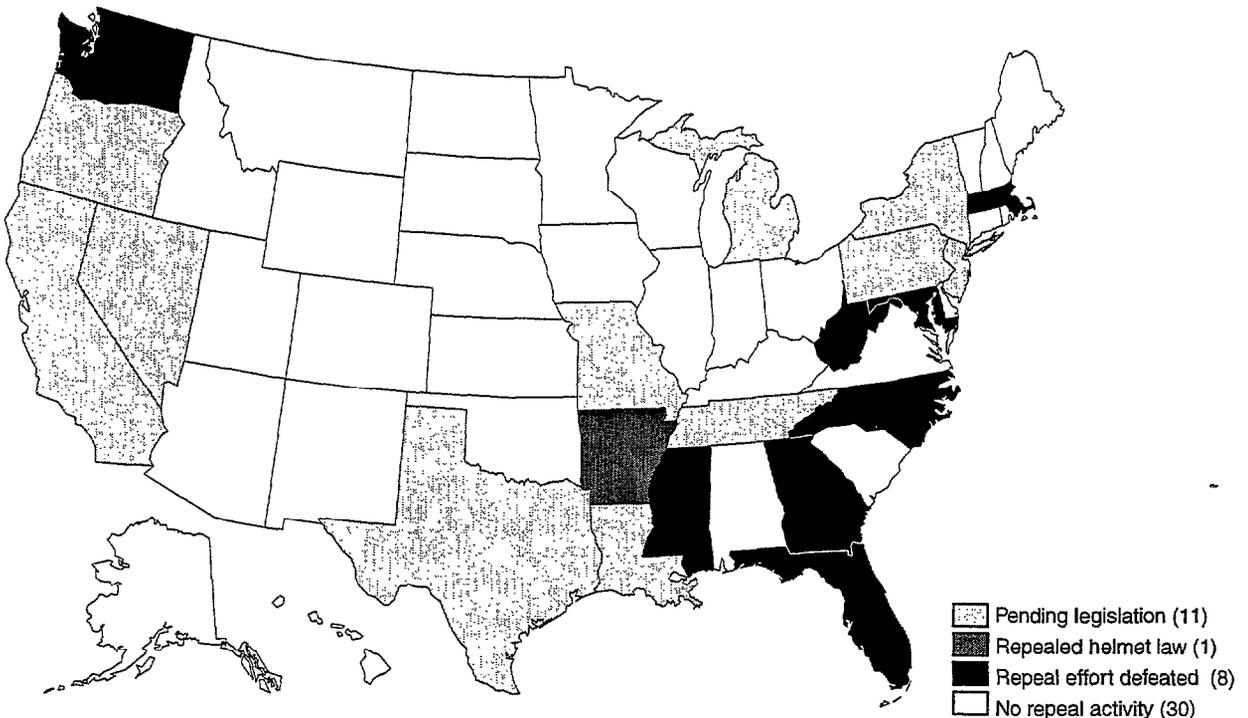
- 1991--Intermodal Surface Transportation Efficiency Act required the transfer of highway construction funds to highway safety programs for states without universal motorcycle helmet use laws.
 - 1995--National Highway System Designation Act repealed the helmet provision; no change to NHTSA's authority.
 - Motorcycle Riders' Foundation has concerns about NHTSA's continuing activities in light of the 1995 act.
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**GAO States With Motorcycle Helmet Use
Laws (as of May 1997)**



Source: NHTSA.

GAO Mandatory Motorcycle Helmet Law
Repeal Legislation (as of May 8, 1997)



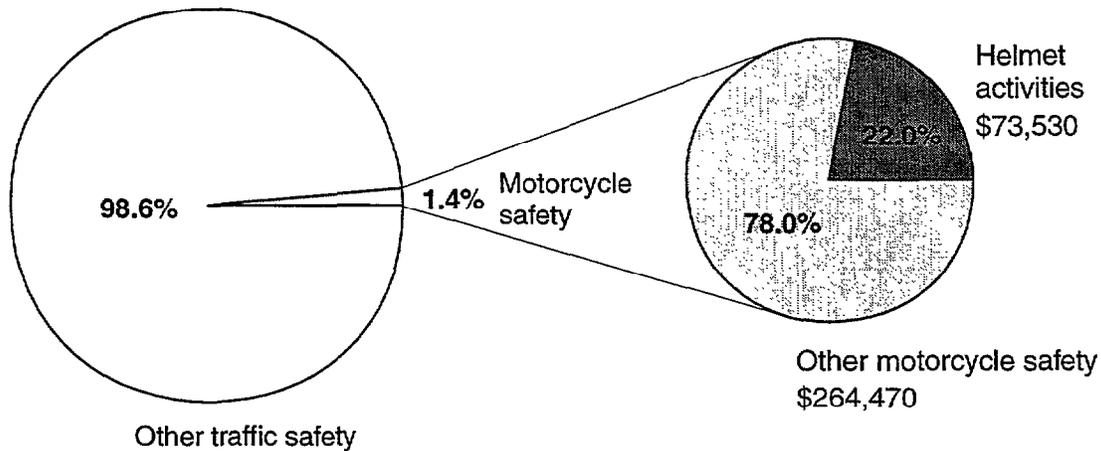
Note: References to pending legislation and repeals include bills to eliminate motorcycle helmet laws completely as well as bills to impose motorcycle helmet requirements on the basis of a rider's age.

Source: NHTSA.

GAO NHTSA'S BUDGET--MOTORCYCLE HELMET ACTIVITIES (FY 1994-97)

Overall traffic safety program
(Average annual budget, \$24 million)

Motorcycle safety program
(Average annual budget, \$338,000)



Note: Amounts do not include the salaries of employees who carry out NHTSA's traffic safety activities. NHTSA could not provide activity-specific information on employees' salaries.

Source: GAO's presentation of NHTSA's budget data.

**GAO NHTSA'S ACTIVITIES REGARDING
STATE HELMET LAWS**

- Activities to promote enactment of and discourage the repeal of state helmet laws (fall 1995 to May 1997).
 - Testified 6 times before state legislative committees and submitted 1 statement for record, according to NHTSA.
 - Met with state highway safety officials.
 - Made phone calls/sent letters to state legislative, safety, and other officials.
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GAO NHTSA'S ACTIVITIES REGARDING
STATE HELMET LAWS

- Provided technical assistance and information (general legislative package, fact sheets/statistics).
 - In some cases, NHTSA responded to requests for assistance; in others, activities were self-initiated.
 - NHTSA was more active in states with legislative activity.
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GAO NHTSA'S ACTIVITIES REGARDING
STATE HELMET LAWS

- NHTSA believes its activities are consistent with its mission.
 - Activities documented in printed congressional hearing record.

GAO NHTSA'S LEGAL AUTHORITY

- NHTSA is authorized and directed to assist state governments to increase highway safety (23 U.S.C. 401).
 - NHTSA has concluded that motorcycle helmets are critical to ensuring rider and passenger safety.
 - NHTSA has concluded that universal motorcycle helmet use laws are the most effective way to ensure that riders and passengers wear helmets.
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GAO NHTSA'S LEGAL AUTHORITY

- NHTSA is required to establish a data collection and reporting program to assist in reducing traffic-related deaths and injuries (23 U.S.C. 402(a)).
 - NHTSA is authorized to carry out research and development activities to promote highway safety (23 U.S.C. 403(a)).
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GAO LIMITATIONS

- NHTSA's authority to promote state helmet laws is not unlimited.
 - NHTSA cannot require states to mandate motorcycle helmets for adults in connection with safety program grants (23 U.S.C. 402(c)).

GAO NHS ACT

- NHS Act removed the Secretary's authority to transfer highway construction funds to highway safety programs for states without motorcycle helmet laws.
 - NHS Act did not affect NHTSA's authority to encourage states to enact motorcycle helmet laws or to discourage the repeal of existing laws.
-

GAO SCOPE OF REVIEW

- Reviewed selected activities since fall 1995 in light of applicable statutory provisions.
 - Testimony prepared for use before state legislative committees.
 - Testimony delivered before the Texas House Transportation Committee.
 - Other activities in Texas (e.g., letters to state legislators).
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GAO TESTIMONY BY NHTSA BEFORE
STATE LEGISLATIVE COMMITTEES

- NHTSA's testimony prepared for use before state legislative committees was within its statutory authority.
 - Focused on effectiveness of helmets as safety device, issues raised in opposition to helmet laws, and the effect of laws on helmet use.
 - Based on results of safety research.
 - Emphasized that decision on helmets belongs to states.
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GAO **ACTIVITIES BY NHTSA REGARDING
TEXAS HELMET LAW**

- Testimony given in Texas reflects "boiler plate" testimony.
 - Focused on safety; contained Texas-specific statistics and emphasized state's responsibility for decision on helmet law.
 - Other activities by NHTSA--such as letters encouraging opposition to repeal legislation--were designed to increase safety and were within statutory authority.
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GAO NHTSA'S ACTIVITIES REGARDING
STATE HELMET LAWS

- Federal lobbying provisions are not applicable to NHTSA's testimony and activities we reviewed.
 - "[No funds] shall... be used directly or indirectly to pay for any...device, intended or designed to influence...a *Member of Congress*, to favor or oppose, by vote or otherwise, any legislation or appropriation by *Congress....*"(1996/1997 Department of Transportation Appropriations Acts and 18 U.S.C.1913). (Emphasis added.)
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GAO NHTSA'S ACTIVITIES REGARDING
STATE HELMET LAWS

- "No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch,...for publicity or propaganda purposes, and for the preparation, distribution, or use of any [item] designed to support or defeat legislation pending before the *Congress*...." (1997 Treasury, Postal Service, and General Government Appropriations Act). (Emphasis added.)
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